

## HCS SCS SB 726 -- FINANCIAL TRANSACTIONS

SPONSOR: Parson (Wells)

COMMITTEE ACTION: Voted "do pass" by the Committee on Financial Institutions by a vote of 10 to 2.

This substitute changes the laws regarding interest rates, investment of certain public funds, perfection of security interests, credit card processing service contract disclosures, gold and silver coins as legal tender, and residential mortgage loan brokers.

### INTEREST RATES

The substitute changes the laws regarding the application of a specific interest rate. The interest rate will be the adjusted prime rate charged by banks as determined by the Department of Revenue or the adjusted prime rate plus 1% for certain interest rates used by the Director of the Department of Revenue, late payments by the state for supplies and services, late payments by public entities to contractors, repayment of teaching degree scholarships, workers' compensation benefit payments, delinquent workers' compensation taxes, nursing student loans, creditor claims on written contracts that did not specify the rate of interest, judgments in tort cases, securities litigation, loans to political subdivisions for alternative fuel vehicles, failure to pay the odorized propane assessment, certain payments by and to the Land Reclamation Commission within the Department of Natural Resources, unclaimed property that the holder fails to pay the State Treasurer, overpayments by the Department of Mental Health to vendors, and judgments against air contaminant sources that have not paid fees.

### INVESTMENT OF CERTAIN PUBLIC FUNDS

Currently, political subdivisions and public entities can invest funds not immediately needed in certificates of deposit. The substitute revises the provisions regarding the investment options available by removing certificates of deposit and replacing it with deposit accounts.

### PERFECTION OF SECURITY INTERESTS

The substitute specifies that the filing of a financing statement is necessary to perfect a security interest in collateral that is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind.

## CREDIT CARD PROCESSING SERVICE CONTRACT DISCLOSURES

Beginning with new contracts entered into after August 28, 2012, the substitute requires any person or entity that offers a credit card processing service in this state to disclose, in writing in at least an eight-point font, the term and effective date of the contract, the amount of any monthly minimum fee or charge for the service, and the amount of any fee or charge for terminating the contract or agreement.

Any person or entity offering this service cannot charge a fee of more than \$50 for terminating a contract or a monthly minimum fee for more than one month after the contract has been terminated. The rental or lease of equipment cannot be considered fees under these provisions.

A violation of these provisions constitutes an unfair and deceptive act under Chapter 407, RSMo. These provisions cannot limit the rights or remedies otherwise available to any person or entity contracting for this service and the obligations under these provisions are cumulative and do not limit the obligations imposed under any other state or federal law.

These provisions do not apply to a state or national bank or savings association or the parent, affiliate, or subsidiary of any bank or savings association that offers a credit card processing service and will not affect the jurisdiction of state or federal bank regulators over regulations of credit card processing services provided by state or national banks or state or federal credit unions.

## GOLD AND SILVER COINS AS LEGAL TENDER

The substitute changes the laws regarding legal tender. The substitute:

- (1) Specifies that gold and silver coins issued by the federal government are legal tender in Missouri; however, no person can compel any other person to tender or accept gold and silver coins;
- (2) Specifies that the exchange of gold and silver coins for another form of legal tender must be exempt from sales and use taxes, income taxes, and all capital gains imposed by this state; and
- (3) Requires the House Committee on Ways and Means to study, by January 1, 2013, the possibility of establishing an alternative form of legal tender for the payment of debts, taxes, and dues; recommend whether legislation should be drafted for this purpose;

and prepare any recommended legislation.

#### RESIDENTIAL MORTGAGE LOAN BROKERS

A mortgage broker making loans on manufactured or modular homes is allowed to charge, require, or receive points or other fees except insurance on any residential real estate loan.

A residential mortgage loan broker engaged primarily in the business of brokering, funding, or purchasing loans that are secured by a manufactured or modular home is allowed to be licensed in this state without maintaining a full-service office in Missouri. The term "engaged primarily" means a residential mortgage loan broker deriving 75% or more of its gross income in Missouri from the brokering, funding, or purchasing of loans secured by a manufactured home or modular unit. The broker must file with his or her license application an irrevocable consent in a form as determined by the Director of the Division of Finance within the Department of Insurance, Financial Institutions and Professional Registration which provides that for any suit or action commenced against the broker in the courts of this state, the venue will lie in Missouri.

The division director may assess the reasonable costs of any investigation incurred by the division which are outside the normal expense of any annual or special examination or any other costs incurred as a result of the broker not maintaining a full-service office in Missouri.

FISCAL NOTE: No impact on state funds in FY 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that the bill will make it easier for companies that offer loans on manufactured homes to do business in Missouri and create more competition which will save consumers money. Currently, there are a limited number of institutions that will make loans on manufactured homes in Missouri.

Testifying for the bill were Senator Parson; and Missouri Manufactured Housing Association.

OPPOSERS: Those who oppose the bill say that it will create an unlevel playing field by allowing an exemption for mortgage brokers that other lenders do not have. This sets a risky precedent for one small segment of this industry that will expose high-risk consumers to potential abuse.

Testifying against the bill was Erik Janeczko, Missouri Association of Mortgage Professionals.

OTHERS: Others testifying on the bill say that it does not address the federal preemption of Public Law 96-221, Section 501(b)(4) in Section 408.052 of the bill which could lead to higher interest rates.

Testifying on the bill was Mortgage Bankers Association of Missouri.